

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2017-077-10241R

Parcel No. 120/00340-000-000

6305 SW 12th St Trust (Levi Freeman, Trustee),

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal was submitted for written consideration before the Property Assessment Appeal Board (PAAB) on November 21, 2017. Trustee Levi Freedman represented 6305 SW 12th Street Trust. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

6305 SW 12th Street Trust (Trust) owns a residential property located at 6305 SW 12th Street, Des Moines. The property's January 1, 2017 assessment was set at \$116,100, allocated as \$18,900 in land value and \$97,200 in dwelling value. (Ex. A).

The Trust petitioned the Board of Review asserting its property was assessed for more than authorized by law and there was an error in the assessment, asserting the condition was below normal, under Iowa Code sections 441.37(1)(a)(1)(b & d). The Board of Review denied the petition.

The Trust reasserts its claim of overassessment to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Findings of Fact

The subject property is a one-story home with an unfinished attic built in 1952. It has 1020 square feet of gross living area; a full, unfinished basement; and a one-car

detached garage. The subject property is listed in normal condition and listed as a 4+05 grade (average quality) rating. The site is 0.170 acres. (Ex. A).

Freedman submitted a letter to PAAB stating the subject property was purchased in December 2016 for \$60,000. (Ex. 3). He noted there were multiple offers prior to the sale and that the property was not in good condition. Repairs and remodeling were completed on the subject property after the purchase. (Ex. 3). Because there was no significant change in the condition of the property between the date of sale and assessment date, Freedman believes the sale price represents the fair market value of the subject property as of January 1, 2017.

The Board of Review submitted an appraisal of the subject property completed by Brennan Parker of Central Iowa Appraisers, Des Moines. (Ex. C). Parker relied on the sales comparison approach to value. The appraisal has an effective date of January 2017, and concludes an opinion of value of \$104,000. The appraisal notes “no listings were found on the DMAAR MLS within the last 12 months. Subject sold recently without any formal marketing.”

Freedman submitted a November 1, 2017, letter to PAAB in response to the appraisal. He explains improvements were completed on the subject property after its purchase and prior to the appraisal. For this reason, Freedman does not believe the appraisal accurately reflects the value of the subject property as of January 1, 2017. Parker reports that although the property has had some updating, it “is still dated in areas and considered to be in average overall condition.” (Ex. C, p. 1). He also notes cosmetic updating including newer floors, interior paint, and kitchen counters. Continued deferred maintenance includes older windows in fair condition and some boarded up windows. Parker relied on four 2016 sales of brick one-story homes like the subject property and all located within a mile. Parker also notes Sale 3 had previously sold as a distressed sale in March 2016 for \$71,000; after renovation it sold in July 2016 for \$135,000.

Despite the appraisal reflecting some updates to the subject property since it was purchased, Freedman notes it concludes a market value of \$104,000, which is still less than the assessed value of \$116,100. In response, the Board of Review notes that

Parker also stated the December 2016 sale of the subject property “was as a distressed property.” And that “the prior sale is not considered to be a normal arms-length transaction and is not a good indicator of its prior market value.” (Ex. C, p. 2).

Analysis & Conclusions of Law

The Trust asserts its property is over assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Under section 441.21(1)(b), the subject property’s purchase price is to be considered in arriving at its market value. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* Here, we find the subject property’s December 2016 is not a normal, arm’s length transaction because it was not known to be formally listed and conditions of the sale are unknown. We do not believe the sale provides a reliable reflection of the property’s fair market value as delineated in section 441.21.

The Board of Review submitted an appraisal of the subject property, indicating a market value of \$104,000 as of January 2017. The Trust asserts the appraisal does not accurately reflect the market value of the subject as of January 1, 2017, because of improvements completed after the sale. Moreover, the Trust points out that the appraised market value, even with improvements, is less than the January 1, 2017 assessment.

PAAB finds Parker’s appraisal is the most persuasive evidence in the record of the subject property’s fair market value as of January 1, 2017. For this reason, PAAB finds that the subject property is assessed for more than authorized by law.


Order

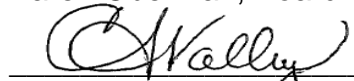
PAAB HEREBY MODIFIES the Polk County Board of Review's action, and orders the subject property's January 1, 2017 assessed value be set at \$104,000.

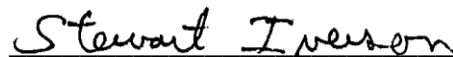
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.


Karen Oberman, Board Member


Camille Valley, Board Member


Stewart Iverson, Board Chair

Copies to:

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Polk County Board of Review by eFile